

REMARKS

Claims 1-16, 22, 24-26 were pending, of which Claims 9-16, 22 and 25 were indicated as being allowable. Claims 1-3, 8 and 24 were rejected and Claims 4-7 and 26 were objected to. Claim 1 has been amended. Reconsideration is requested.

Claim Rejections – 35 U.S.C. §102

Claims 1, 8, and 24 were rejected under 35 U.S.C. §102(e) as being anticipated by Scheiner et al. (6,556,947) ("Scheiner"). Applicant requests reconsideration.

Claim 1 has been amended to recite "learning a first pattern at a de-skew site on a first wafer layer" and "saving the first pattern and its location in a recipe for de-skewing multiple wafer layers". Thus, the recipe contains a single pattern that de-skews multiple wafer levels. The same recipe also contains the learned "second pattern".

Scheiner does not explicitly or inherently teach or suggest learning a first pattern on a first wafer level and saving the first pattern for "de-skewing multiple wafer levels". Moreover, Scheiner does not inherently disclose saving a second pattern in the same recipe. "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). MPEP §2112. As discussed in paragraph [0007] of Applicant's background section, "conventionally the pattern recognition system uses a different recipe after each specific process (i.e., for each specific layer of the wafer)." There is no basis or technical reasoning provided why Scheiner departs from the conventional system. Applicant further notes that there is no basis or technical reason why Scheiner would save "the first pattern and its location in a recipe for de-skewing multiple wafer layers."

Accordingly, Applicant respectfully submits that Claim 1 is patentable over Scheiner. Reconsideration and withdrawal of this rejection is respectfully requested. Claims 8 and 24 depend from Claim 1 and is therefore likewise patentable for at least the same reasons.

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Claim Rejections – 35 U.S.C. §103

Claims 2 and 3 were rejected under 35 U.S.C. §103(a) as being unpatentable over Scheiner in view of Garakani et al. (6,240,208) (“Garakani”). Applicant respectfully traverses.

Claims 2 and 3 depend from Claim 1. Garakani fails to make up for the deficiencies of Scheiner. Accordingly, Claims 2 and 3 are allowable for at least the same reasons as Claim 1.

Claims 1 is amended herein. For the above reasons, Applicant respectfully requests allowance of all pending claims. Should the Examiner have any questions concerning this response, the Examiner is invited to call the undersigned at (408) 378-7777.

## CERTIFICATE OF FACSIMILE TRANSMISSION

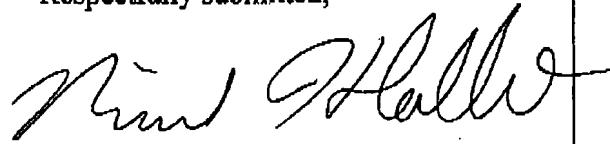
I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office to the fax number 571-273-8300 on October 25, 2007.



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